

Patent

Docket No. CAM-33610

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Franck Chaubron, *et al.*
 Serial No. : 10/534,647
 Filing Date : April 3, 2006
 Group Art Unit: 1637
 Examiner : David C. Thomas
 For : ONE STEP REAL-TIME RT PCR KITS FOR THE
 UNIVERSAL DETECTION OF ORGANISMS IN
 INDUSTRIAL PRODUCTS

CERTIFICATION OF SUBMISSION

I hereby certify that, on the date shown below, this correspondence is being transmitted via the Patent Electronic Filing System (EFS) addressed to OIPE at the U.S. Patent and Trademark Office.

Date: September 25, 2008

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Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

INTRODUCTORY COMMENTS

This is in response to the Office Action dated April 25, 2008 (Part of Paper No./Mail Date 040306), for which a response was due on May 25, 2008. A Request for a four- month Extension of Time (small entity) is also incorporated in this response, and thus, this response is timely filed.

Election

The Examiner required restrictions under 35 U.S.C. § 121 and 372 to one of the following:

Group I, which encompasses claims(s) 1-19, 28 and 29, is drawn to a method for determining the presence of bacteria or fungus-yeast RNA in a sample.

Group II, which encompasses claim(s) 20-27, is drawn to a kit comprising a thermostable enzyme with reverse transcriptase and DNA polymerase activity, primers for reverse transcription and PCR, and one or more detection probes.

In addition, the Examiner stated that Applicants election of Group I would require the Applicants to select no more than one polynucleotide primer from each of Groups III and IV and one polynucleotide probe from Group V. Groups III-V are set forth below.

Group III includes SEQ ID Nos. 1, 3, 5, 7, and 9, representing sequences of a forward primer generic to claims 3-8, 16 and 24;

Group IV includes SEQ ID Nos. 2, 4, 6, 8, and 10, representing sequences of a reverse primer generic to claims 3-8, 15, and 23; and

Group V includes SEQ ID Nos. 11-19, representing sequences of a probe generic to claims 3-8, 17, and 24.

At page 2 of the Office Action, the Examiner further stated that Group I included “many claims which were found to be obvious over prior art, specifically by Rokbi et al. (Infection and Immunity (2001) 69:4759-4766), which is shown to be an X reference which teaches a method

for quantifying *Helicobacter pylori* gene expression using a real-time RT-PCR assay in view of Lin (U.S. Patent Pub. No. 2002/0187488), which teaches a one step real time RT PCR assay....” Applicants respectfully point out the current Office Action is not an action on the merits, and therefore, Applicants will withhold substantive comment on the cited references until rejections are articulated. Amendments to the claims have been made to encompass methodologies of current economic interest, and have not been made in response to any cited reference or any other publication, alone or in combination. Applicants have not acquiesced to any arguments regarding the cited references set forth by the Examiner. Applicants reserve the right to distinguish the cited references, if the cited references are set forth in an Office Action on the merits.

In response thereto, Applicants hereby elect Group I, claim 1-19, 28, and 29, and correspondingly SEQ ID Nos. 1, 2, and 11, without traverse, for continued examination.

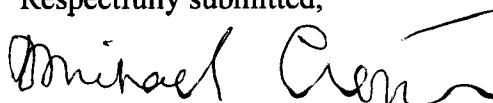
Applicants expressly reserve Applicants’ right under 35 U.S.C. § 121 to file a divisional application directed to the non-elected subject matter during the pendency of this application, or an application claiming priority from this application.

Applicants request examination of the elected subject matter on the merits.

REQUEST FOR EXTENSION OF TIME

Applicants request a four (4)-month extension of time (small entity) in connection with this response. Authorization is given to charge deposit account No. 23-2053 for appropriate fees connected with this request, and any other fees deemed necessary to maintain pendency of this application.

Respectfully submitted,



Michael Cronin, Ph.D.

Dated: September 25, 2008

Reg. No. 61,196

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